

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

~~Town~~ of Plandome Heights

~~Village~~

Bill 1 of 2019

Local Law _____ of the year 20_____

(Insert Title)

A local law amending Article VII, "Telecommunication Towers," of Chapter 140, "Zoning," of the Code of the Village of Plandome Heights, with respect to Small Wireless Facilities (5G).

Be it enacted by the Board of Trustees_____ of the
(Name of Legislative Body)

~~County~~

~~City~~

~~Town~~ of Plandome Heights

~~Village~~

Section 1. Legislative Intent. The intent of this local law is to comply with 83 FR 51867, the Federal Rule adopted by the Federal Communications Commission on October 15, 2018, with regard to Small Wireless Facilities.

Section 2. § 140-44, Definitions, of Article VII, "Telecommunication Towers," of Chapter 140, "Zoning," of the Code of the Village of Plandome Heights, is hereby amended by adding the following definitions:

"COLLOCATION – As to Small Wireless Facilities, means mounting or installing an antenna for a Small Wireless Facility on a pre-existing structure; and/or modifying an existing structure for the purpose of mounting or installing an antenna for a Small Wireless Facility on that structure."

"FACILITY – A structure that is used for the provision of personal wireless service,

whether such service is provided on a stand-alone basis or commingled with other wireless communications services.”

“SMALL WIRELESS FACILITIES - Facilities that meet the following criteria:

- A. The facilities:
 - (1) Are mounted on structures 50 feet or less in height, including their antennas;
 - (2) Are mounted on structures no more than 10 percent taller than other adjacent structures; or
 - (3) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
- B. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume.
- C. The provisions in §§ 140-45 and 140-46, shall not apply and there shall be no required minimum spacing between structures, however:
 - (1) The spacing and location of the structures shall be such as to minimize the aesthetic impact upon nearby residential dwellings, taking into account property lines, driveways, topography, sight lines, water views, and existing landscaping.
 - (2) New Small Wireless Facilities shall be placed on existing structures with existing Small Wireless Facilities to the extent feasible, so long as the collocation does not have a material adverse aesthetic impact on nearby residential dwellings from the multiplicity of facilities and associated equipment.
 - (3) If such new Small Wireless Facilities are not to be placed on existing structures with existing Small Wireless Facilities, they shall be placed on other existing structures to the extent feasible, so long as the location does not have a material adverse aesthetic impact on nearby residential dwellings.
- D. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment of the structure, is no more than 28 cubic feet in volume.
- E. The facilities do not require antenna structure registration pursuant to the rules adopted from time to time by the Federal Communications Commission.

F. The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards adopted from time to time by the Federal Communications Commission.”

Section 3. § 140-51, “Fees,” of said Chapter 140, is hereby amended by adding a new subsection C, to read as follows:

“C. Each owner and operator of one or more Small Wireless Facilities shall pay to the Village such permit applications fees and annual fees as set from time to time by resolutions of the Board of Trustees.”

Section 4. § 140-52, “Termination of Permit; abandoned or unused towers,” of said Chapter 140, is hereby amended by adding a new subsection C, to read as follows:

“C. Small Wireless Facilities.

In lieu of subsections A and B of this section, the following provisions shall apply to Small Wireless Facilities:

- (1) A Small Wireless Facility shall be deemed abandoned after 25 days’ notice to the permittee of nonpayment of a Village fee to maintain the facility, the expiration of a required permit for the facility, or sufficient other reasons by which the Village may reasonably infer that the facility has been abandoned.
- (2) All abandoned Small Wireless Facilities and all of the wireless equipment associated with such facilities shall be removed within 45 days after such facilities have been abandoned or have been deemed abandoned.
- (3) In the event that such facilities and the wireless equipment associated with such facilities shall not be removed within said 45-day period, such facilities and equipment shall be deemed abandoned and of no further value and may be removed and disposed of at any time thereafter by the Village and the cost of such removal and disposal shall be paid to the Village by the permittee within 30 days of demand by the Village. The permittee shall hold the Village harmless for any claims by any third-party for the Village’s removal and disposal of any such abandoned facilities and equipment.
- (4) All notices shall be deemed sufficient if hand-delivered, sent by fax, email, or overnight courier, or mailed by certified mail return receipt requested to the last address, fax number, or email address on file for the permittee with the Village Clerk. Notwithstanding the foregoing, so long as a notice is actually received, the delivery shall be deemed sufficient.

(5) No performance bond shall be required.”

Section 5. § 140-54, “Procedural Requirements,” of said Chapter 140, is hereby amended to read as follows:

“A. Non-Small Wireless Facilities.

The Board shall conduct a public hearing within 62 days from the day a complete application is filed with the Village Clerk with the appropriate application fee and deposit. The Board shall issue a decision within 35 days after the conclusion of the public hearing and the recommendations of the Nassau County Planning Commission, whichever is the later to occur.

B. Small Wireless Facilities.

- (1) At the discretion of the Board, the Board may conduct a public hearing.
- (2) The Board shall use its best efforts and due diligence to review an application to collocate a Small Wireless Facility using an existing structure within 60 days of its receipt of a complete application.
- (3) The Board shall use its best efforts and due diligence to review an application to deploy a Small Wireless Facility using a new structure within 90 days of its receipt of a complete application.”

Section 6. Effective date. This local law shall take effect immediately.

* * * *

NOTE TO VPH BOT AND VC/T: SET FORTH BELOW IS PROPOSED BOT RESOLUTION RE: FEES FOR TELECOM TOWERS AND FOR SMALL WIRELESS FACILITIES: CLERK SHOULD CHECK OUR CURRENT FEE SCHEDULE TO SEE IF IT ADDRESSES TELECOM TOWERS PRESENTLY; IF SO, AMOUNTS SUGGESTED BELOW SHOULD BE AMENDED ACCORDINGLY

* * * *

RESOLUTION RE: FEES FOR TELECOMMUNICATIONS TOWERS AND SMALL WIRELESS FACILITIES

- “() Each owner and operator of a telecommunications tower and/or antenna, other than with regard to Small Wireless Facilities, shall pay the following fees:
- (a) Each owner and operator of a tower shall pay to the Village an annual fee of \$2,000 for such tower and an annual fee of \$500 for each antenna on such tower.
 - (b) Each owner and operator of an antenna not located on a tower shall pay to the Village an annual fee of \$750 for such antenna.”
- “() Each owner and operator of one or more Small Wireless Facilities shall pay the following fees:
- (a) The application fee shall be \$500 for a Small Wireless Facility on an existing structure. If the application includes more than one Small Wireless Facility on an existing structure, there shall be no charge for the first five Small Wireless Facilities on existing structures and an additional \$100 fee for each Small Wireless Facility on an existing structure included in the application in excess of five.
 - (b) The application fee shall be \$1,000 for each Small Wireless Facility that will not be attached to an existing structure.
 - (b) There shall be an annual fee of \$270 for each Small Wireless Facility.”

* * * *